



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2019-0107]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this provides the public notice that on December 11, 2019, BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232. FRA assigned the petition Docket Number FRA-2019-0107.

BNSF requests that FRA grant a waiver of compliance from 49 CFR 232.215, *Transfer train brake tests*, with respect to transfer movements between BNSF's Old South Yard and New South Yard in Houston, Texas ("transfer movements"). Specifically, BNSF proposes to conduct a Class III brake test in lieu of a transfer train brake test prior to making a transfer movement governed by this waiver. BNSF believes that the limited waiver it seeks in this context is appropriate because the risk of proceeding with the transfer movements without a full transfer train brake test is minimal and is adequately addressed by the conditions BNSF proposes.

Transfer movements between BNSF's Old South Yard and New South Yard require a train to traverse approximately 1,400 feet of main line track on the Houston West Belt Subdivision ("Main Line"). The Main Line between the yards is tangent with no obstructions to visibility in either direction and is on a level grade. Track speed on the

Main Line at this location is 20 miles per hour (MPH), but trains performing transfer movements between BNSF yards operate at 10 MPH and would continue to do so under this waiver.

BNSF previously petitioned FRA for a waiver on this topic (see Docket Number FRA-2004-19949). FRA denied that petition without prejudice principally due to the absence of any conditions or alternate procedures included within the petition to ensure an adequate level of safety. BNSF believes the conditions set forth below will adequately address FRA's concerns.

BNSF requests that the waiver be granted to permit transfer movements to be governed subject to the following conditions:

1. Prior to undertaking a transfer movement, the brake pipe will be connected through the entire cut of cars to be moved.
2. Prior to undertaking a transfer movement, a successful Class III brake test must be performed on the train performing the transfer movement, with air pressure at the rear of the consist verified using an air gauge.
3. All trains performing a transfer movement between Old South Yard and New South Yard will be limited to a maximum speed of 10 MPH.

BNSF states these conditions represent a revised approach incorporating FRA's guidance from its denial of the 2005 petition.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open

from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business,

labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

John Karl Alexy,
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Chief Safety Officer.

[FR Doc. 2020-00975 Filed: 1/21/2020 8:45 am; Publication Date: 1/22/2020]